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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1986

No. 86-174

MAHAN & ROWSEY, INC.,
Petitioner,

v.

OKLAHOMA NATURAL GAS,
A DIVISION OF ONEOK INC.,
A DELAWARE CORPORATION,
Respondent.

On Petition For A Writ Of Certiorari to the United States Court of Appeals For The Tenth Circuit

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PETITIONER'S REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

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September, 1986

ISSUE PRESENTED

May Federal Courts base decisions on inferences that are violative of known physical, mathematical and mechanical laws?

TABLE OF CONTENTS

	Page
STATEMENT OF THE CASE	1
REASONS WHY WRIT SHOULD BE GRANTED	2
CONCLUSION	3

TABLE OF AUTHORITIES

CASES: Page

General Talking Pictures, Corp. v. Westinghouse Electric Co., (1938) 304 U.S. 175, 82 L.Ed 1273, 58 S. Ct. 849 2

Rogers v. Mississippi P.R. Company, 352 U.S. 500, 1 L.Ed. 2nd 493, 77th S. Ct. 443 2

RULES:

Supreme Court Rule 17(A) 3

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PETITIONER'S REPLY BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

Petitioner, Mahan & Rowsey, Inc., in reply to respondent Oklahoma Natural Gas Company's brief in opposition to Writ of Certiorari offers the following arguments and authorities.

STATEMENT OF THE CASE

Oklahoma Natural Gas Company's (ONG) brief in opposition to petition of certiorari is a restatement of its position maintained throughout that pressure response equals gas communication. ONG's case was largely built on fluctuations of pressure at the native gas accumulation of the Manes wells caused by the far larger gas

storage reservoir's impact on the intervening water table during the injection and withdrawal cycle.

ONG's statement concerning gravity override on page 5 in its brief in opposition are astounding. There was no evidence or testimony of any type produced that a tilted water table phenomena has been observed in connection with gas repressuring operation in partially depleted reservoirs. These statements are absolutely fictionalized.

The credibility of the expert witnesses was a non-issue. The District Court candidly admitted it did not understand the scientific principles that were involved determining the veracity of the expert's opinions. Therefore, the District Court was wholly unable to reach a credibility determination.

REASONS WHY WRIT SHOULD BE GRANTED

The Supreme Court will generally not grant a writ of certiorari merely to review evidence or inferences drawn from the evidence. *General Talking Pictures, Corp. v. Westinghouse Electric Co.*, (1938) 304 U.S. 175, 82 L. Ed 1273, 58 S. Ct. 849. Nevertheless, the Court has recognized an exception where there are special and important reasons for the granting of the writ. *Rogers v. Mississippi P.R. Company*, 352 U.S. 500, 1 L.Ed. 2nd 493, 77th S.Ct. 443. The petition presents the question of whether a litigant may be deprived of its property in the federal system by findings which defy rational, logical, and scientific fact. ONG's gravity override theory, in the context of the established conditions at the Depew Storage Reservoir, would be humorous but for the tragic consequences of being embraced by the Courts below.

The scientific and technological strides made within this century surpass anything within prior judicial experience. The Courts have become tempered to the new and novel as a consequence. The case below is testament to the fact that this fascination has left common sense in the dust. Light, highly compressible gas does not tilt tons of virtually incompressible formation water over a three mile span absent the daily injection of billions of cubic feet of gas; far more than ONG stores in the entire reservoir after a full season of injection. The Courts below, accepting ONG's theory without explanation, defied established physical and natural laws.

The petitioner does not come before this Court arguing that there has been an incorrect inference drawn from evidence in the Courts below. The petitioner brings to this Court's attention a breakdown of reasoning. Rule 17(A) of the Rules of this Court call for the writ to be granted if the Court below has departed from the accepted and usual course of judicial proceedings in such a fashion as to call for the exercise of this Court's power of supervision. This petition for certiorari presents such an occurrence.

CONCLUSION

The petitioner, Mahan & Rowsey, Inc., submits the petition presents an instance justifying the Court's issuing a writ of certiorari to the United States Court of Appeals for the Tenth Circuit and accordingly requests the petition be granted.

Respectfully submitted

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